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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,557	01/29/2004	Nigel Patrick Wright	P06542US00	5078

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EXAMINER	
HAMO, PATRICK	
ART UNIT	**PAPER NUMBER**
3746	

MAIL DATE	DELIVERY MODE
12/11/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/767,557	WRIGHT, NIGEL PATRICK	
	Examiner	Art Unit	
	Patrick Hamo	3746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 October 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This action is in response to amendments filed on October 16, 2007.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fried et al., Pat. No. 3,816,033 in view of Lopez et al., Pat. No. 4,265,155.

Fried discloses a pump assembly with a motor M with drive gear 28A mounted on base plate 11a, a pump plate 40 detachably mounted to the base plate at bead portions 24, 25 and movable between a first position (fig. 6) and a second position (fig. 7), where a first pump unit 27 is mounted on the plate and has a gear 55 in mesh with motor gear 33 in the first position, and a second pump unit is in mesh with motor gear 34 in the second position, the gears of the pumps at a common end, and where there are a variety of these pump units 27 available and capable of being selectively engaged or disengaged such that when the first pump is engaged, the second pump can be disengaged and vice versa (col. 6, ll. 7-20) depending on the positions of the pump plates (figs. 5-7), the plate movable between positions by adjusting a pin or bead 24,25 in the base plate to slots or recesses 105,106 in the pump plate, secured into position by a hand-actuated knob 89 threaded onto plate 77 which is connected to base plate

11a , the method of changing the pump assembly from a first to second pump comprising mounting the pumps 27 to pump plates 40, mounting the plate to base plate 11a and moving it to a first position (fig. 6) whereby the first pump is engaged with the motor, and moving the plate to a second position (fig. 5) whereby the first pump is disengaged while a second pump can be engaged and vice versa(col. 6, ll. 7-20), with no restriction on the time frame in which this can occur, hence the two can be moved simultaneously; a plurality of threaded screws 76 detachably secure the pump plate 40 to the base plate 11a via spacer members 65, 66. Because of the clear demarcation between the motor portion (left side of figs. 1 and 2) and the pump portion (right), it is obvious that the assembly is mountable to a building wall so that the motor is on one side of the building wall and the pumps are on the other side of the building wall.

Fried does not disclose the following claimed limitations: that the pump plate is movable while attached to the base plate; that a single drive gear selectively drives the gears of the first and second pumps when the pump plate is in the first and second positions, respectively; wherein the pump plate includes at least one slot extending through the pump plate to provide the first and second position and the base plate includes a pin extending through the slot whereby the pump plate slides between the first and second positions; movement of either pump automatically affecting movement of the other pump.

However, Lopez teaches an assembly for coupling rotating mechanical devices 20 to a driving motor 52 via a single drive gear 46, wherein each of the devices has a gear 36 fixed on one end, the device gears 36 selectively engaged to the drive gear 46

when a plate 14 to which both the devices are mounted is moved between two positions, and the plate includes a slot (best shown in fig. 3) extending through the plate to receive the drive gear 46, the shaft of the gear interpreted as a pin, the pump plate sliding between first and second positions via the pin and slot, the directional sliding of the pump plate being quided by slots between guidings 28 on either side of the pump plate, either one or the toehr and never both of the driven gears being engaged with the drive gear at any one time, so that when one is engaged in a first position the other is not and vice versa, such that the construction is more economical (col. 1, ll. 47-53) and also having the advantage that the device which is inactive may be prepped and is quickly accessible because it is integrally attached to the device in use.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to have modified the pump assembly of Fried with the driving assembly of Lopez so that the construction is more economical (col. 1, ll. 47-53) and also having the advantage that the device which is inactive may be prepped and is quickly accessible because it is integrally attached to the device in use.

Response to Arguments

Applicant's arguments filed October 16, 2007 have been fully considered but they are not persuasive.

In response to applicant's argument that Lopez is nonanalogous art, applicant correctly notes that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the

applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Lopez teaches an assembly for coupling rotating mechanical devices to a drive gear, which is reasonably pertinent to the problem of the present application and of the reference to Fried, namely coupling multiple pumps to a single motor. Therefore, examiner respectfully reasserts the opinion that Lopez is a proper reference to the present application.

In response to applicant's argument that it the structural arrangements in Friend and Lopez are substantially different and therefore it is unclear how the Lopez drive assembly can be used on the Fried pump assembly, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Furthermore, the combination is more economical in that it eliminates a number of gears from the gear train of Fried and allows the second pump to be prepped while still attached to the assembly, aiding in a quicker reengagement of the pump.

Furthermore, as discussed above in the rejections under 35 U.S.C. § 103(a), the amendments to the claims do not patentably distinguish the application from the cited references.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Johnson discloses a pump assembly with a motor 28 with a drive gear 31, selectively driving first 16 and second 17 pumps having gears 27 at a common end.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick Hamo whose telephone number is 571-272-3492. The examiner can normally be reached on M-F 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon Kramer can be reached on 571-272-7118. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PH

DEVON C. KRAMER
PATENT EXAMINER

12/6/07